

## Nadler: Extending PATRIOT Act Provisions Without Reform Poses Continued Danger to Civil Liberties

Thursday, 25 February 2010

WASHINGTON, D.C. – Today, Congressman Jerrold Nadler (D-NY), Chair of the House Judiciary Subcommittee on the Constitution, Civil Rights and Civil Liberties, lamented the House's extension of certain sunset provisions of the USA PATRIOT Act without corresponding reforms. H.R. 3961 will extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act without modification for one year, beginning on March 1, 2010.

Nadler issued the following statement on the House floor:

"Mr. Speaker, I rise in opposition to this motion to concur in the Senate amendment which would extend for a period of one year the sunset of three provisions of the USA PATRIOT Act. I very much regret that I have to be here today to oppose this legislation. I understand that we are facing a deadline this weekend, but I also believe that we have an obligation to do more than punt. That is effectively what we are doing today. We are punting to the next Congress.

"Both the House and the Senate have worked hard to examine not just these three provisions, but the entire PATRIOT Act, to craft legislation that would improve its effectiveness, and that would better protect the civil liberties of all Americans. That process should be allowed to continue. Today, with this vote, that process ends.

"The PATRIOT Act was passed in a time of panic, and in an extremely rushed manner. Many of its provisions were not well thought out, which is why Congress decided that certain parts of it should be enacted on a temporary basis so that we could revisit them after we had time to see how they worked.

"The original passage of the bill in 2001 is an embarrassment to this House. The Judiciary Committee reported a bill unanimously – with support from the most conservative to the most liberal members. We did business the way the American people say they wanted us to do it – through negotiation and compromise. That was the high point. The low point came in the dead of night. Then-Attorney General Ashcroft objected to the bill and so, with the cooperation of the Republican Leadership, an entirely different bill passed.

"The bill that passed the Judiciary Committee recently would have extended two of the expiring provisions until 2013, but would have improved them in response to the problems that experience has brought to light.

"With respect to roving wiretaps, the Committee added language to clarify Congressional intent that the government must describe its roving target with a sufficient degree of particularity to allow a judge to be able to distinguish the target from other potential users of places or facilities to be surveilled.

"Our bill would have allowed the 'lone wolf' provision of FISA to sunset. This provision allows the issuance of FISA warrants against individuals with no connection to a foreign power, foreign terrorist organization, or other foreign entity. That is not the purpose of FISA, and, in fact, Todd Hinnen, Deputy Assistant Attorney General for the Justice Department's National Security Division, testified before my subcommittee that the provision has never been used. There is no reason why a 'lone wolf,' unconnected to a foreign power, or to a terrorist group, cannot be subject to normal Title III wiretap warrants. Therefore, the Committee voted to let this provision sunset.

"We also added some procedural protections to section 215 orders which allow the government to seize, without a warrant, all sorts of information concerning what an individual has been reading. The bill would have required the

President to report to Congress on whether the procedures for sensitive collections could be further modified so as to enhance civil liberties protections without undermining national security objectives. It was also extended to the end of 2013.

“My legislation controlling the use of the much-abused National Security Letters was included as well. These letters, issued with no court oversight, have been used to obtain all sorts of material, and have been joined with gag orders on the recipients that were recently struck down by the courts. The Justice Department’s Office of Inspector General has issued some damning reports on the use of these letters, and the section is in dire need of reform. Those reforms should be part of any legislative action extending the provisions of the PATRIOT Act.

“I regret that we are not going to continue this process of improving the PATRIOT Act. Our nation, and our liberties, will suffer. I hope that this vote today will not stop my colleagues from continuing to improve our intelligence gathering laws.”